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contract. Judgment for defendant when his demurrer to the notice was sustained, and plaintiff brings error. Reversed.

E. W. White, F. C. Abbott, and Herbert M. Woodward, all of Norfolk, for plaintiff in error.

Jas. G. Martin, of Norfolk, for defendant in error.

MURDEN *v.* VIRGINIA RY. & POWER CO.

June 16, 1921.

[107 S. E. 660.]

1. Trial (§ 156 (3)*)—By Demurrer to Evidence, Party Admits Truth of Adversary's Evidence.—By demurring to evidence, the party demurring admits truth of his adversary's evidence and all just inferences therefrom, and waives all of his own evidence in conflict therewith, and also all inferences from his own evidence, although not in conflict with demuree's, not necessarily resulting therefrom.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 522.]

2. Railroads (§ 327 (8)*)—Duty to Look and Listen Continuous.—The duty to look and listen before crossing a railroad track continues as long as the occasion for the exercise of such duty continues, and, if there is any point at which by looking and listening the person injured could have avoided the accident and failed to do so, he is guilty of contributory negligence.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 385.]

3. Railroads (§ 327 (3)*)—Pedestrian Held Guilty of Contributory Negligence.—A pedestrian, injured at a railroad crossing where there was nothing to obstruct the view and the lights were burning on defendant's car, held guilty of contributory negligence as a matter of law.

Sims, J., dissenting.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 385.]

Error to Circuit Court, Norfolk County.

Action by *H. H. Murden* against the Virginia Railway & Power Company. Judgment for defendant, and plaintiff brings error. Affirmed.

Old & Brockenbrough and *Jas. G. Martin*, all of Norfolk, for plaintiff in error.

Williams & Tunstall, of Norfolk, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.